

DT20 R00d PCT/PTO 15 AUG 2003

A32367-PCT-USA 066290.0105
PATENT

#9

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Volloch *et al.*
Serial No. : 09/936,879 Examiner : TBA
Filed : September 18, 2001 Group Art Unit: 1643
For : SCREENING METHODS FOR COMPOUNDS USEFUL
IN THE REGULATION OF CELL PROLIFERATION

RENEWED PETITION UNDER 37 CFR 1.137 (b)

I hereby certify that this paper is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop PCT Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450

August 12, 2003

Date of Deposit

Carmella L. Stephens

Attorney Name

41,328

PTO Registration No

Carmella L. Stephens
Signature

August 12, 2003
Date of Signature

Assistant Commissioner for Patents

Washington, D.C. 20231


SIR:

In response to the Decision on Petition Under 37 C.F.R. 1.137(b) received in connection with the above identified patent application, Applicants request reconsideration of the Petition For Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. 1.137(b) filed on January 3, 2003. A copy of the Petition is included herewith.

Applicants submit herewith an executed Declaration and Power of Attorney of Michael Sherman. Applicants have not yet received back the executed Declaration and Power of Attorney of Vladimir Volloch. The Declaration was sent out to Dr. Volloch via Federal Express on July 30, 2003 (a copy of the cover letter and Declaration is included herewith). In addition, multiple attempts were made to phone Dr. Volloch to request timely return of the signed Declaration and Power of Attorney. Multiple messages were left on Dr. Volloch's answering machine requesting return of the signed document prior to the August 12, 2003 deadline. An unsuccessful attempt was also made to reach a secretary in Dr. Volloch's Department of Chemical & Biological Engineering to ascertain whether Dr. Volloch was away from the office. On August 12, 2003, I again phoned Dr. Volloch's office and was informed that he had been away but was expected back that day. As soon as the executed Declaration and Power of Attorney are returned to me I will forward them to your attention immediately.

In the event that a fee is required, the Commissioner is hereby authorized to charge any fee to Deposit Account No. 02-4377. A duplicate copy of this sheet is enclosed.

Respectfully submitted,


Lisa B. Kole
PTO Registration No. 35,225

Carmella L. Stephens
PTO Registration No. 41,328

Attorneys for Applicant

BAKER BOTTS, L.L.P.
30 Rockefeller Plaza
New York, NY 10112
(212) 408-2539

Encl.

**COMBINED DECLARATION
AND POWER OF ATTORNEY****(Original, Design, National Stage of PCT, Divisional, Continuation or C-I-P Application)**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name; I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**SCREENING METHODS FOR COMPOUNDS USEFUL
IN THE REGULATION OF CELL PROLIFERATION**

This declaration is of the following type:

- ☐ original
- ☐ design
- ☒ national stage of PCT.
- ☐ divisional
- ☐ continuation of prior Application No.
- ☐ continuation-in-part (C-I-P)

the specification of which: *(complete (a), (b), or (c))*

- (a) ☐ is attached hereto.
- (b) ☒ was filed on September 18, 2001 as Application Serial No. 09/936,879.
- (c) ☒ was described and claimed in PCT International Application No. PCT/US00/07350 filed on March 17, 2000.

Acknowledgement of Review of Papers and Duty of Candor

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of the subject matter claimed in this application in accordance with Title 37, Code of Federal Regulations § 1.56.

☐ In compliance with this duty there is attached an information disclosure statement. 37 CFR 1.98.

Priority Claim

I hereby claim foreign priority benefits under Title 35, United States Code, § 119(a)-(d) of any foreign application(s) for patent or inventor's certificate or of any PCT International Application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT International Application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application on which priority is claimed

(complete (d) or (e))

- (d) ☐ no such applications have been filed.
- (e) ☐ such applications have been filed as follows:

PRIOR FOREIGN/PCT APPLICATION(S) FILED WITHIN 12 MONTHS (6 MONTHS FOR DESIGN) PRIOR TO SAID APPLICATION			
COUNTRY	APPLICATION NO.	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)
			PRIORITY CLAIMED UNDER 35 USC 119 <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
ALL FOREIGN APPLICATION(S), IF ANY, FILED MORE THAN 12 MONTHS (6 MONTHS FOR DESIGN) PRIOR TO SAID APPLICATION			
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO

Claim for Benefit of Prior U.S. Provisional Application(s)

I hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States provisional application(s) listed below:

Provisional Application Number	Filing Date
60/125,046	March 18, 1999

Claim for Benefit of Earlier U.S./PCT Application(s) under 35 U.S.C. 120

(complete this part only if this is a divisional, continuation or C-I-P application)

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) or PCT international application(s) designating the United States of America that is/are listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior application(s) in the manner provided by the first paragraph of Title 35, United States Code § 112, I acknowledge the duty to disclose information as defined in Title 37, Code of Federal Regulations, § 1.56 which occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application:

(Application Serial No.) PCT/US00/07350 (Filing Date) March 17, 2000 (Status) Published (patented, pending, abandoned)

(Application Serial No.) (Filing Date) (Status) (patented, pending, abandoned)

Power of Attorney

As a named inventor, I hereby appoint Robert Neuner; Reg. No. 24,316; Richard G. Berkley, Reg. No. 25,465; Bradley B. Geist, Reg. No. 27,551; James J. Maune, Reg. No. 26,946; John D. Murnane, Reg. No. 29,836; Henry Tang, Reg. No. 29,705; Robert C. Scheinfeld, Reg. No. 31,300; John A. Fogarty, Jr., Reg. No. 22,348; Louis S. Sorell, Reg. No. 32,439; Rochelle K. Seide Reg. No. 32,300; Gary M. Butter, Reg. No. 33,841; Lisa B. Kole, Reg. No. 35,225; Carmella Stephens, Reg. No. 41,328; and Anthony Giaccio, Reg. No. 39,684 of the firm of BAKER & BOTTS, L.L.P., with offices at 30 Rockefeller Plaza, New York, New York 10112, as attorneys to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith

SEND CORRESPONDENCE TO: BAKER & BOTTS, L.L.P. 30 ROCKEFELLER PLAZA, NEW YORK, N.Y. 10112 CUSTOMER NUMBER: 21003	DIRECT TELEPHONE CALLS TO: BAKER & BOTTS, L.L.P. (212) 705-5000
--	---

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

FULL NAME OF SOLE OR FIRST INVENTOR	LAST NAME Volloch	FIRST NAME Vladimir	MIDDLE NAME Z.	
RESIDENCE & CITIZENSHIP	CITY Brookline	STATE or FOREIGN COUNTRY Massachusetts	COUNTRY OF CITIZENSHIP United States	
POST OFFICE ADDRESS	POST OFFICE ADDRESS 358 Tappen Street	CITY Brookline	STATE or COUNTRY Massachusetts	ZIP CODE 02445
DATE	SIGNATURE OF INVENTOR			
FULL NAME OF SECOND JOINT INVENTOR, IF ANY	LAST NAME Sherman	FIRST NAME Michael	MIDDLE NAME	
RESIDENCE & CITIZENSHIP	CITY Newton	STATE or FOREIGN COUNTRY Massachusetts	COUNTRY OF CITIZENSHIP United States	
POST OFFICE ADDRESS	POST OFFICE ADDRESS 581 Saw Mill Brook Parkway	CITY Newton	STATE or COUNTRY Massachusetts	ZIP CODE 02459
DATE 07.31.07	SIGNATURE OF INVENTOR			
FULL NAME OF THIRD JOINT INVENTOR, IF ANY	LAST NAME	FIRST NAME	MIDDLE NAME	
RESIDENCE & CITIZENSHIP	CITY	STATE or FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP	
POST OFFICE ADDRESS	POST OFFICE ADDRESS	CITY	STATE or COUNTRY	ZIP CODE
DATE	SIGNATURE OF INVENTOR			
FULL NAME OF FOURTH JOINT INVENTOR, IF ANY	LAST NAME	FIRST NAME	MIDDLE NAME	
RESIDENCE & CITIZENSHIP	CITY	STATE or FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP	
POST OFFICE ADDRESS	POST OFFICE ADDRESS	CITY	STATE or COUNTRY	ZIP CODE
DATE	SIGNATURE OF INVENTOR			
FULL NAME OF FIFTH JOINT INVENTOR, IF ANY	LAST NAME	FIRST NAME	MIDDLE NAME	
RESIDENCE & CITIZENSHIP	CITY	STATE or FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP	
POST OFFICE ADDRESS	POST OFFICE ADDRESS	CITY	STATE or COUNTRY	ZIP CODE
DATE	SIGNATURE OF INVENTOR			
FULL NAME OF SIXTH JOINT INVENTOR, IF ANY	LAST NAME	FIRST NAME	MIDDLE NAME	
RESIDENCE & CITIZENSHIP	CITY	STATE or FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP	
POST OFFICE ADDRESS	POST OFFICE ADDRESS	CITY	STATE or COUNTRY	ZIP CODE
DATE	SIGNATURE OF INVENTOR			

From: Carmella L. Stephens (212)408-2500
Baker Botts
30 Rockefeller Plaza
43rd Floor
New York, NY, 10112

REVENUE BARCODE

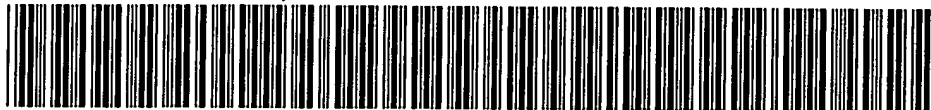


FedEx.

To: Vladimir Volloch (617)627-3186
Tufts Univ. School of Engineering
Dept. of Chemical & Bio Engineering
4 Colby Street
Medford, MA, 02155

SHIP DATE: 30JUL03
WEIGHT: 1 LBS

Ref: 066290.0106 03627 Stephe



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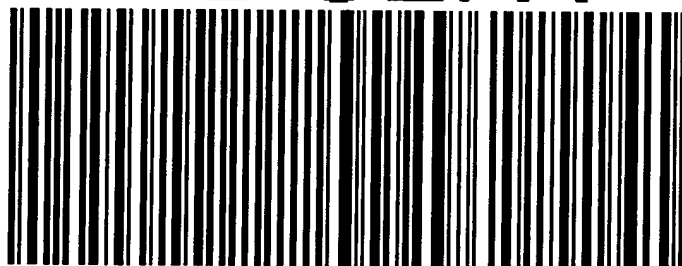
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Use of this system constitutes your agreement to the service conditions in the current FedEx Service Guide, available on fedex.com. FedEx will not be responsible for a claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for an loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$500, e.g. jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits, see current FedEx Service Guide.

BAKER BOTTS LLP

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WASHINGTON

CARMELLA L. STEPHENS, PH. D., J. D.
212.408.2539
E-MAIL ADDRESS:
CARMELLA.STEPHENS@BAKERBOTTS.COM

July 30, 2003

Via Federal Express

Dr. Vladimir Volloch
Tufts University School of Engineering
Department of Chemical & Biological Engineering
4 Colby Street,
Medford, MA 02155

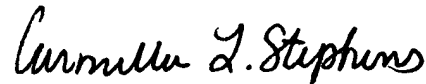
Re: U.S. National Phase Application S/N 09/936,879 filed 09/18/2001
which corresponds to Int'l Appln. No. PCT/US00/07350 filed March 17, 2000,
based on U.S. Provisional Appln. No. 60/125,046 filed March 18, 1999 for
"SCREENING METHODS FOR COMPOUNDS USEFUL IN THE
REGULATION OF CELL PROLIFERATION" by Volloch *et al.*
(Our File No: 32367-PCT-USA 066290.0105)

Dear Dr. Volloch:

As per my phone message, enclosed is a Combined Declaration and Power of Attorney prepared in connection with the above-identified patent application. Please sign and date the document and return it to me as soon as possible. The due date for submitting the Combined Declaration and Powers of Attorney to the United States Patent and Trademark Office is **August 12, 2003**. For your convenience, I have included a Federal Express envelop for returning the Declaration to me.

Should you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,



Carmella L. Stephens

c: Adel Mikhail, Ph.D.

NY02:401837.1

**COMBINED DECLARATION
AND POWER OF ATTORNEY****(Original, Design, National Stage of PCT, Divisional, Continuation or C-I-P Application)**

As a below named inventor, I hereby declare that:

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☐ In compliance with this duty there is attached an information disclosure statement. 37 CFR 1.98.

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(complete (d) or (e))

- (d) ☐ no such applications have been filed.
- (e) ☐ such applications have been filed as follows:

PRIOR FOREIGN/PCT APPLICATION(S) FILED WITHIN 12 MONTHS (6 MONTHS FOR DESIGN) PRIOR TO SAID APPLICATION				
COUNTRY	APPLICATION NO.	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)	PRIORITY CLAIMED UNDER 35 USC 119
				<input checked="" type="checkbox"/> YES NO <input type="checkbox"/>
				<input type="checkbox"/> YES NO <input type="checkbox"/>
				<input type="checkbox"/> YES NO <input type="checkbox"/>
ALL FOREIGN APPLICATION(S), IF ANY, FILED MORE THAN 12 MONTHS (6 MONTHS FOR DESIGN) PRIOR TO SAID APPLICATION				
				<input type="checkbox"/> YES NO <input type="checkbox"/>
				<input type="checkbox"/> YES NO <input type="checkbox"/>
				<input type="checkbox"/> YES NO <input type="checkbox"/>

Claim for Benefit of Prior U.S. Provisional Application(s)

I hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States provisional application(s) listed below:

Provisional Application Number	Filing Date
60/125,046	March 18, 1999

Claim for Benefit of Earlier U.S./PCT Application(s) under 35 U.S.C. 120

(complete this part only if this is a divisional, continuation or C-I-P application)

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) or PCT international application(s) designating the United States of America that is/are listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior application(s) in the manner provided by the first paragraph of Title 35, United States Code § 112, I acknowledge the duty to disclose information as defined in Title 37, Code of Federal Regulations, § 1.56 which occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application:

(Application Serial No.) PCT/US00/07350 (Filing Date) March 17, 2000 (Status) Published (patented, pending, ab
(Application Serial No.) (Filing Date) (Status) (patented, pending, abandoned)

Power of Attorney

As a named inventor, I hereby appoint Robert Neuner, Reg. No. 24,316; Richard G. Berkley, Reg. No. 25,465; Bradley B. Geist, Reg. No. 27,551; James J. Maune, Reg. No. 26,946; John D. Murnane, Reg. No. 29,836; Henry Tang, Reg. No. 29,705; Robert C. Scheinfeld, Reg. No. 31,300; John A. Fogarty, Jr., Reg. No. 22,348; Louis S. Sorell, Reg. No. 32,439; Rochelle K. Seide Reg. No. 32,300; Gary M. Butter, Reg. No. 33,841; Lisa B. Kole, Reg. No. 35,225; Carmella Stephens, Reg. No. 41,328; and Anthony Giaccio, Reg. No. 39,684 of the firm of BAKER & BOTTS, L.L.P., with offices at 30 Rockefeller Plaza, New York, New York 10112, as attorneys to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith

SEND CORRESPONDENCE TO: BAKER & BOTTS, L.L.P. 30 ROCKEFELLER PLAZA, NEW YORK, N.Y. 10112 CUSTOMER NUMBER: 21003	DIRECT TELEPHONE CALLS TO: BAKER & BOTTS, L.L.P. (212) 705-5000
--	---

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

NY02:365103.1

FULL NAME OF SOLE OR FIRST INVENTOR	LAST NAME Volloch	FIRST NAME Vladimir	MIDDLE NAME Z.	
RESIDENCE & CITIZENSHIP	CITY Brookline	STATE or FOREIGN COUNTRY Massachusetts	COUNTRY OF CITIZENSHIP United States	
POST OFFICE ADDRESS	POST OFFICE ADDRESS 358 Tappen Street	CITY Brookline	STATE or COUNTRY Massachusetts	ZIP CODE 02445
DATE	SIGNATURE OF INVENTOR			
FULL NAME OF SECOND JOINT INVENTOR, IF ANY	LAST NAME Sherman	FIRST NAME Michael	MIDDLE NAME	
RESIDENCE & CITIZENSHIP	CITY Newton	STATE or FOREIGN COUNTRY Massachusetts	COUNTRY OF CITIZENSHIP United States	
POST OFFICE ADDRESS	POST OFFICE ADDRESS 581 Saw Mill Brook Parkway	CITY Newton	STATE or COUNTRY Massachusetts	ZIP CODE 02459
DATE	SIGNATURE OF INVENTOR			
FULL NAME OF THIRD JOINT INVENTOR, IF ANY	LAST NAME	FIRST NAME	MIDDLE NAME	
RESIDENCE & CITIZENSHIP	CITY	STATE or FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP	
POST OFFICE ADDRESS	POST OFFICE ADDRESS	CITY	STATE or COUNTRY	ZIP CODE
DATE	SIGNATURE OF INVENTOR			
FULL NAME OF FOURTH JOINT INVENTOR, IF ANY	LAST NAME	FIRST NAME	MIDDLE NAME	
RESIDENCE & CITIZENSHIP	CITY	STATE or FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP	
POST OFFICE ADDRESS	POST OFFICE ADDRESS	CITY	STATE or COUNTRY	ZIP CODE
DATE	SIGNATURE OF INVENTOR			
FULL NAME OF FIFTH JOINT INVENTOR, IF ANY	LAST NAME	FIRST NAME	MIDDLE NAME	
RESIDENCE & CITIZENSHIP	CITY	STATE or FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP	
POST OFFICE ADDRESS	POST OFFICE ADDRESS	CITY	STATE or COUNTRY	ZIP CODE
DATE	SIGNATURE OF INVENTOR			
FULL NAME OF SIXTH JOINT INVENTOR, IF ANY	LAST NAME	FIRST NAME	MIDDLE NAME	
RESIDENCE & CITIZENSHIP	CITY	STATE or FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP	
POST OFFICE ADDRESS	POST OFFICE ADDRESS	CITY	STATE or COUNTRY	ZIP CODE
DATE	SIGNATURE OF INVENTOR			

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**Docket Number (Optional)
A32367

First named inventor: Vollach et al.

Application No.: 09/936,879

Art Unit: TBA

Filed: September 18, 2001

Examiner: TBA

Title: Screening Methods For Compounds Useful in the Regulation of Cell Proliferation

Attention: Office of Petitions
Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee☒ Small entity-fee \$ 650 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))**2. Reply and/or fee**A. The reply and/or fee to the above-noted Office action in
the form of response to Notification of Missing Requirements (identify type of reply):

- ☐ has been filed previously on _____.
- ☒ is enclosed herewith.

B. The issue fee of \$ _____.

- ☐ has been paid previously on _____.
- ☐ is enclosed herewith.

3. Terminal disclaimer with disclaimer fee

- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Jan. 3, 2003
Date

Carmella L. Stephens
Signature

Telephone
Number: 212 408-2539

Carmella L. Stephens
Typed or printed name
BakerBotts, LLP

Address
30 Rockefeller Plaza, N.Y., N.Y. 10112

Enclosures: ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

Jan. 3, 2003
Date

Carmella L. Stephens
Signature

Carmella L. Stephens
Type or printed name of person signing certificate